

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Dennis D. Howe,**

Petitioner-Appellant,

v.

**Boone County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 11-08-1128  
Parcel No. 08-8226-36-24-86-055**

On April 9, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Dennis D. Howe was self-represented and requested a written consideration. The Boone County Board of Review was represented by County Attorney Jim Robbins. The Appeal Board having reviewed the entire record, and being fully advised, finds:

*Findings of Fact*

Dennis D. Howe, owner of a residentially classified property located at 713 Edgewood Lane, Madrid, Iowa, appeals from the Boone County Board of Review regarding his 2011 property assessment. The January 1, 2011, assessment is allocated as \$21,603 in land value and \$291,000 in improvement value, for a total assessment of \$312,603.

The subject property is a one-story, brick<sup>1</sup> home built in 1995. The improvements include 2076 square feet of above-grade finish; a full basement with 1419 square feet of living-quarter finish; an 864 square-foot, attached brick garage; a 432 square-foot, composite deck; and two open porches totaling 207 square feet. The site size is 0.556 acres.

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<sup>1</sup> Howe asserted it is a frame home with brick siding.

Howe protested the assessment to the Boone County Board of Review and contended the property was assessed for more than the value authorized by law under section 441.21(b) asserting the correct value is \$217,477; and that there is an error in the assessment under section 441.21(d), stating the year built for the residence and garage were incorrect; that the subject was a frame home with brick siding, not a “one-story brick home;” and that the “fireplace is a prefab not masonry.” Additionally, Howe asserted there had been a change downward in value since the last assessment under sections 441.37(1) and 441.35. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review, 2006 WL 1750300 (Iowa Ct. App. 2006).*

The Board of Review granted the protest, in part, correcting the improvement's year built to 1995 and changing the fireplace to a “pre-fab double side.” The Board of Review did not acknowledge the error claim regarding the brick exterior. The assessment was reduced to \$288,165, allocated as \$21,603 in land value and \$266,562 in improvement value.

Howe then appealed to this Board. In a written statement, Howe does not appear to continue to allege “physical” errors in the listing of his property, but does claim there is an “error in the assessed value.” He is essentially reasserting his claim the property is over-assessed.

Howe provides selections of articles that discuss declining housing prices and market; however, this information is based on national data, and we do not find it necessarily reflective of the Madrid market. Therefore, we give it limited consideration.

Howe asserts his property is the only property in his neighborhood to see an increase in value for the 2011 assessment. He provides a written explanation and a spreadsheet outlining the assessment history of his property. Howe notes the increase from his 2010 to 2011 assessment, after the Board of Review reduction, is 28.5%. He compares this increase to nine neighboring properties that all saw decreases from 1% to 34.9%, with an average decrease of 14.4%. Howe further analyzes this data by

removing the low and high outliers, resulting in an average decrease of 13.3%. Therefore, he asserts his 2011 assessment should be calculated by reducing his 2010 assessment of \$224,203 by 13.3% to \$197,884.

By comparing the neighboring assessments to his, it appears as if Howe is making an equity claim under Iowa Code section 441.21(1)(a). However, this Board can only consider the grounds raised before the Board of Review.

Howe does not assert the properties he identified are “comparable,” rather he considered these properties because of their location and proximity to his property. We note six of the properties are manufactured homes compared to the subject’s stick-built design; and the properties that are stick-built are significantly smaller in living area compared to the subject property. Additionally, the subject has a 3+10 grade, whereas the identified properties range from 3 to 6-10, with two having “observed” conditions. The following is a brief comparison of the subject property (highlighted) to the nine properties submitted by Howe.

	Style	GLA	Basement	Bsmt Fin	Year Built	Grade	Condition
713 Edgewood Ln	1 Sty	2076	2076	1419 LQ	1995	3+10	Normal
519 W 8th Street	1 Sty/Mfd	1960	1993	None	1993	3-10	Normal
513 W 8th Street	1 Sty/Mfd	1539	0	N/A	1996	3	Normal
613 W 8th Street	1 Sty/Mfd	1404	1404	1404 LQ	1999	4-10	Normal
612 W 8th Street	1 Sty	816	816	600	1964	5+5	Observed
620 W 8th Street	1 Sty/Mfd	1808	1808	1472	1977	4+10	Normal
714 Edgewood Ln	1 Sty/Mfd	1586	1586	1451 Stnd	1996	3-10	Normal
608 W 8th Street	1 Sty	384	0	N/A	1992	6-10	Observed
609 W 8th Street	1 Sty	1068	1068	0	2001	4	Normal
716 Edgewood Ln	1 Sty/Mfd	1924	462	348	1994	3-10	Normal

We do not find the properties to be sufficiently comparable to the subject. More importantly, none of the properties have sold. A market value claim is typically supported with adjusted sales of comparable properties.

The Board of Review submitted a brief in support of its position. It notes that as a result of Howes protest, the subject property was re-measured and the living area was adjusted from 1991 to 2076 square feet; the basement finish was adjusted from 1556 to 1419 square feet; the fireplace was adjusted from a single to a double-sided; and the property was given a 10% functional obsolescence due to “odd shaped rooms and usability of the odd shaped rooms (triangle shaped).”

It also essentially asserts Howe has failed to offer persuasive evidence establishing the correct fair market value of his property. We agree.

Based upon the foregoing, we find Howe has not provided sufficient evidence to support a claim of over-assessment.

#### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. *Id.* “Market value” essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*  
If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).  
The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

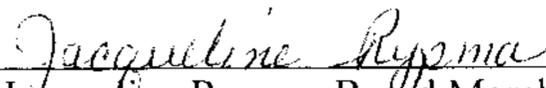
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Howe did not provide sufficient evidence of the correct and actual market value of the subject property as of January 1, 2011. A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

We therefore affirm the assessment of Dennis D. Howe's property as determined by the Boone County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Dennis D. Howe's property located at 713 Edgewood Lane, Madrid, Iowa, of \$288,165, as of January 1, 2011, set by Boone County Board of Review, is affirmed.

Dated this 15 day of May, 2012.

  
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Karen Oberman, Presiding Officer

  
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Jacqueline Rypma, Board Member

Cc:

Dennis D. Howe  
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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-15</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	